

Form 19 - SECRETARY OF STATE - 306

MASON TENDERS DISTRICT COUNCIL

ATTN: LAREN DEAN

U.S. SOUTHERN DIST. COURT

NEW YORK COUNTY

STATE OF NEW YORK

MASON TENDERS DISTRICT COUNCIL OF
GREATER NEW YORK AND LONG ISLAND
- against -

plaintiff

Index No. 07CV11227RMB

Date Filed

Office No.

CIRCLE CARPENTRY, LLC ET AL

defendant

Court Date: 05/15/2008

STATE OF NEW YORK, COUNTY OF NEW YORK :SS:

DANIEL MILLER

being duly sworn, deposes and says that
he is over the age of 18 years, resides in the State of New York and is
not a party to this action. That on the

7th of May, 2008 at 09:55 am

at the Office of the Secretary of State of the State of New York in the
City of Albany, New York, he served the

ORDER TO SHOW CAUSE

WITH SUPPORTING DOCUMENTS

UPON: CIRCLE INTERIOR DEMOLITION, INC

the **DEFENDANT** in this action, by delivering to and leaving with

DONNA CHRISTIE, AGENT

in the office of the Secretary of State of New York, two true copies
thereof and at the same time of making such service, deponent paid said
Secretary of State, a fee of \$40. That said service was made pursuant to
Section 306 of the BCL.

Deponent further describes the person actually served as follows:

SEX: FEMALE

COLOR: WHITE

HAIR: BLONDE

APP. AGE: 35

APP. HT: 5:5

APP. WT: 130

OTHER IDENTIFYING FEATURES:

SWORN TO BEFORE ME THIS
7th DAY OF May, 2008kw

KENNETH WISSNER

Notary Public, State of New York

No.01WI4714130

Qualified in NEW YORK COUNTY

Commission Expires 03/30/2010

Daniel Miller

DANIEL MILLER

AETNA CENTRAL JUDICIAL SERVICES

225 BROADWAY, SUITE 1802

NEW YORK, NY, 10007

Reference No: 9MTDC126261

Tamir W. Rosenblum (TR 0895)
Haluk Savci (HS 0853)
MASON TENDERS DISTRICT
COUNCIL OF GREATER NEW YORK
520 Eighth Avenue, Suite 650
New York, New York 10018
(212) 452-9451

Counsel for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MASON TENDERS DISTRICT COUNCIL
OF GREATER NEW YORK AND LONG
ISLAND

Plaintiff,

against

CIRCLE CARPENTRY, LLC, CIRCLE
INTERIOR DEMOLITION, INC., and
CARLO BORDONE, an individual.

Defendants.
-----X

Civil Action No.
07-CV-11227 (RMB)

ECF FILED DOCUMENT

CLERK'S CERTIFICATE OF DEFAULT

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on December 13, 2007 with the filing of a summons and complaint. On February 1, 2008, a copy of the summons and complaint, along with Rule 7.1 Statement and Judge Berman's Rules were served on defendant CIRCLE INTERIOR DEMOLITION, INC. by delivery to Donna Christie agent for the Secretary of State of the State of New York. Proof of Service was filed with the Court on March 17, 2008.

I further certify that the docket entries indicate that the defendant CIRCLE INTERIOR DEMOLITION, INC. has not filed an answer or otherwise moved with respect to the complaint herein. The default of the defendant is hereby noted

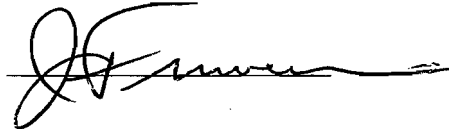
Dated: New York, NY

5/2/08

J. MICHAEL MCMAHON

Clerk of the Court

By:

A handwritten signature in black ink, appearing to read "J. McMahon", written over a horizontal line.

Tamir W. Rosenblum (TR 0895)
Haluk Savci (HS 0853)
MASON TENDERS DISTRICT
COUNCIL OF GREATER NEW YORK
520 Eighth Avenue, Suite 650
New York, New York 10018
(212) 452-9451

Counsel for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MASON TENDERS DISTRICT COUNCIL
OF GREATER NEW YORK AND LONG
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CIRCLE CARPENTRY, LLC, CIRCLE
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Defendants.
-----X

Civil Action No.
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DECLARATION OF HALUK SAVCI, ESQ.

I, HALUK SAVCI, hereby declare:

1. I am a member of the Bar of this Court and counsel for plaintiff MASON TENDERS DISTRICT COUNCIL OF GREATER NY AND LONG ISLAND (hereinafter "MTDC" or "Plaintiff") in the above-entitled action and I am familiar with all the facts and circumstances of this action.

2. I make this declaration pursuant to Rule 55.1 and 55.2(a) of the Civil Rules for the Southern District of New York, in support of the plaintiff's action for the entry of a default judgment against defendant, CIRCLE INTERIOR DEMOLITION, INC. (hereinafter "CID" or the "Defendant").

3. This is an action to confirm an arbitration award (the "Award") issued by Arbitrator Joseph Harris on December 16, 2007 in accordance with the grievance and arbitration terms set forth in the collective bargaining agreement between Plaintiff and Defendant CIRCLE CARPENTRY, LLC to which CID was also bound.

4. This Court has jurisdiction over this action under Section 301 of the LMRA, 29 U.S.C. Section 185, and 28 U.S.C. Sections 1331 and 1337.

5. A dispute arose between the parties in or about November 2005, regarding the Union's claim that the Circle companies were the alter ego and/ or successors to Metro Demolition Contracting Corp. ("Metro"). The Union and its affiliated fringe benefit funds had obtained a judgment on consent against Metro dated October 12, 2005 in the matter of *Trustees of the Mason Tenders District Council Welfare Fund et. al. and MTDC v. Metro Demolition Contracting Corp. and Phantom Demolition Corp.*, 04 CV 6629 (RMB) in the amount of \$732,631.15. .

6. On or about January 6, 2006, the Union submitted the dispute to arbitration under the CBA. The dispute noticed to be arbitrated was as follows:

Whether Circle Carpentry and Circle Interior Demolition, Inc. are liable, as successors and/or alter egos to Metro Demolition the Company, and Carlo Bordone, in his individual and personal capacity, for all obligations owed by Metro to the Mason Tenders District Council and Mason Tenders Fringe Benefit Funds including but not

limited to all amounts due against Metro under the judgment on consent against Metro filed on October 12, 2005 in the matter Trustees of the Mason Tenders District Council Welfare Fund et. al. and MTDC v. Metro Demolition Contracting Corp. and Phantom Demolition Corp., 04 CV 6629 (RMB), and if so, what should be the remedy.

7. Following two days of hearing, Arbitrator Harris issued his Award on or around December 16, 2007 sustaining the Union's grievance. The Arbitrator found that Union clearly demonstrated "that Circle Carpentry, LLC and Circle Interior Demolition, Inc. are liable as successors and/or alter egos to Metro Demolition Corp." and further found that Circle Carpentry, LLC, CID and Carlo Bordone were jointly and severally liable for the October 12, 2005 Consent Judgment against Metro Demolition Corp. in the amount of \$732,631.15. Opinion and Award at

8. Arbitrator Harris further directed Circle Carpentry, LLC, CID and Carlo Bordone to pay the Union's attorney fees in bringing the arbitration totaling \$2,000.00, all costs and arbitrations fees totaling \$1,948.13 and statutory interest on the total amount of the award. Id. at 5.

9. This action was commenced on December 13, 2007, by the filing of the summons and complaint. True copies of the summons and complaint along with the Judge's Rules and Rule 7.1 Statement, were served by Steven Avery, a licensed process server, on defendant CID by service upon Donna Christie of the Office of the Secretary of State of New York State on February 1, 2008. Affidavits of proof of service were filed with the Clerk of the Court on March 17, 2008.

10. As evidenced by the annexed Clerk's Certificate of Default, Defendant CID has not answered the complaint, and the time for the Defendant to answer the complaint has expired.

11. This action seeks judgment for the liquidated amount of \$736,579.28 plus accrued statutory interest from the date of the Award, which is justly due and owing, and no part of which has been paid.

This total amount constitutes damages in sum certain pursuant to an arbitration award issued on December 16, 2007 by Arbitrator Joseph Harri , and which are readily ascertainable from the pleadings and the record and suitable for entry of default judgment without inquest. See Flynn v. Mastro Masonry Contractors, 237 F. Supp. 2d 66 (2002)(DCD).

WHEREFORE, plaintiff requests the entry of the Default and the entry of the annexed Judgment against defendants.

I declare under penalty of perjury the foregoing is true and correct to the best of my knowledge and belief.

Dated: New York, NY
April 23, 2008

/S/

By: Haluk Savci (HS-0853)

Associate General Counsel
Mason Tenders District
Council of Greater NY
520 Eighth Avenue, Suite 650
New York, NY 10018
(212) 452-9407

Counsel for Plaintiffs

Case 1:07-cv-11227-RMB Document 3 Filed 03/17/2008 Page 1 of 1

Form 19 - SECRETARY OF STATE - 306

MASON TENDERS DISTRICT COUNCIL

ATTN: LAUREN DEAN

U.S. DISTRICT SOUTHERN COURT NEW YORK COUNTY STATE OF NEW YORK

MASON TENDERS DISTRICT COUNCIL OF
GREATER NY AND LONG ISLAND
- against -

plaintiff

CIRCLE CARPENTRY, LLC. ETAL

defendant

Index No. 07 CV 11227

Date Filed

Office No.

Court Date: / /

STATE OF NEW YORK, COUNTY OF NEW YORK :SS:

STEVE AVERY

being duly sworn, deposes and says that

he is over the age of 18 years, resides in the State of New York and is not a party to this action. That on the

1st of February, 2008 at 08:50 AM

at the Office of the Secretary of State of the State of New York in the City of Albany, New York, he served the

SUMMONS AND COMPLAINT

RULE 7.1 STATEMENT

JUDGES RULES

UPON: CIRCLE INTERIOR DEMOLITION INC.

the **DEFENDANT** in this action, by delivering to and leaving with

DONNA CHRISTIE, AGENT

in the office of the Secretary of State of New York, two true copies thereof and at the same time of making such service, deponent paid said Secretary of State, a fee of \$40. That said service was made pursuant to Section 306 of the BCL.

Deponent further describes the person actually served as follows:

SEX: FEMALE

COLOR: WHITE

HAIR: BLONDE

APP. AGE: 35

APP. HT: 5:5

APP. WT: 130

OTHER IDENTIFYING FEATURES:

SWORN TO BEFORE ME THIS
12th DAY OF February, 2008sr

KENNETH WISSNER

Notary Public, State of New York

No.01WI4714130

Qualified in NEW YORK COUNTY

Commission Expires 03/30/2010

.....
STEVE AVERY

AETNA CENTRAL JUDICIAL SERVICES

225 BROADWAY, SUITE 1802

NEW YORK, NY, 10007

Reference No: 3MTDC108822

Tamir W. Rosenblum (TR 0895)
 Haluk Savci (HS 0853)
 MASON TENDERS DISTRICT
 COUNCIL OF GREATER NEW YORK
 520 Eighth Avenue, Suite 650
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 (212) 452-9451

Counsel for Plaintiff

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

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 MASON TENDERS DISTRICT COUNCIL
 OF GREATER NEW YORK AND LONG
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Plaintiff,

against

CIRCLE CARPENTRY, LLC, CIRCLE
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Defendants.
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Civil Action No.
 07-CV-11227(Rmb)

ECF FILED DOCUMENT

STATEMENT OF DAMAGES

Amount of Damages totaling \$732,631.15 as enumerated in Trustees of the Mason Tenders, et. al. v. Metro Demolition Contracting Corp. et. al., 04 CV 6629 (RMB)	\$732,631.15
Attorney's fees in bringing the arbitration	\$2,000.00
Arbitration Fees	\$1,948.13
	<hr/>
	\$736,579.28

Dated: New York, NY
April 23, 2008

/S/

By: Haluk Savci (HS-0853)

Associate General Counsel
Mason Tenders District
Council of Greater NY
520 Eighth Avenue, Suite 650
New York, NY 10018
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Counsel for Plaintiffs

Tamir W. Rosenblum (TR 0895)
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MASON TENDERS DISTRICT
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Counsel for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OF GREATER NEW YORK AND LONG	.
ISLAND	.
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Plaintiff,	.
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against	.
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CIRCLE CARPENTRY, LLC, CIRCLE	.
INTERIOR DEMOLITION, INC., and	.
CARLO BORDONE, an individual.	.
	.
	.
Defendants.	.
-----	X

Civil Action No.
07-CV-11227

ECF FILED DOCUMENT

ORDER

This action having been commenced on December 13, 2007 by the filing of a Summons and Complaint; and a copy of the Summons and Complaint having been served on the defendant, CIRCLE INTERIOR DEMOLITION, INC., by service on the New York Secretary of State on February 1, 2008; and the defendant, CIRCLE INTERIOR DEMOLITION, INC., not having answered the Complaint; and the time for answering the Complaint having expired; it is ORDERED, ADJUDGED AND DECREED: that the Plaintiff have judgment against defendant

100

CIRCLE INTERIOR DEMOLITION, INC. in the liquidated amount of \$736,579.28, plus ongoing statutory interest from the date of Award to the present day ; and it is further ORDERED, ADJUDGED AND DECREED that the December 16, 2006 Opinion and Award of Arbitrator Joseph Harris is confirmed in all respects with respect to Defendant CIRCLE INTERIOR DEMOLITION, INC.

U.S.D.J.